

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-18056**

**SEC Charges Investment Adviser and its Chief Executive Officer with Fraud**

**June 30, 2017** – The Securities and Exchange Commission announced today that New York-based investment adviser Bantry Bay Capital, LLC and its chief executive officer, Timothy F. Sexton, Jr., have agreed to settle fraud charges based on excessive advisory fees and the misappropriation of client funds.

According to the SEC's order, beginning in late 2013 and continuing through 2015, Bantry Bay and Sexton charged two clients more than \$200,000 in excessive advisory fees. In addition, during 2014 and 2015, Bantry Bay and Sexton misappropriated approximately \$250,000 that they obtained from these clients under false pretenses. Sexton told the clients he would invest the money in a money market fund, but he instead used it for personal expenses. In addition, Sexton improperly registered Bantry Bay with the Commission as an investment adviser based on false representations made on Forms ADV. From 2011 through 2015, Bantry Bay and Sexton also made other false representations in Bantry Bay's Forms ADV filed with the SEC; violated client custody rules; and failed to make, keep, and preserve required books and records, or make them available to SEC examiners. Within months of a Commission examination of Bantry Bay, the firm and Sexton reimbursed their advisory clients for the excessive fees and misappropriated funds.

The SEC's order finds that Bantry Bay and Sexton willfully violated, and Sexton willfully aided and abetted and caused Bantry Bay's violations of, Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and Sections 206(1), 206(2), and 207 of the Investment Advisers Act of 1940. In addition, Bantry Bay willfully violated, and Sexton willfully aided and abetted and caused Bantry Bay's violations of, Sections 203A, 204, and 206(4) of the Advisers Act and Rules 204-2(a), 204-2(b), 204-2(c)(1), 204-2(e)(1), 204-2(f), and 206(4)-2 thereunder. Bantry Bay and Sexton each consented, without admitting or denying the findings in the SEC's order, to the entry of a cease-and-desist order, an investment company prohibition, and to pay, jointly and severally, a \$100,000 penalty. Bantry Bay also consented to a censure, and Sexton consented to an associational bar.

The SEC's investigation was conducted by Matthew L. Skidmore and Mary S. Brady. The case was supervised by Kurt L. Gottschall, and litigation assistance was provided by Leslie J. Hughes and Gregory Kasper. The SEC examination that led to the investigation was conducted by Bruce G. Ketter and Nicholas F. Madsen.

**See also:**     [Order](#)